

§ 595.105

part only if the four following conditions are met with respect to the category:

(a) Such evidence as vacant positions, an unacceptably high turnover rate, or other positive evidence indicates that the agency is unable to recruit and retain physicians for the category;

(b) The qualification requirements being used as a basis for considering candidates for the vacant positions in the category do not exceed the qualifications that are actually necessary for successful performance of the work of the positions in the category;

(c) The agency has made efforts to recruit qualified candidates for any vacant positions in the category and to retain physicians presently employed in positions in the category; and

(d) A sufficient number of qualified candidates is not available to fill the existing vacancies in the category at the rate of pay the agency may offer if no comparability allowance is paid.

§ 595.105 Determination of amount of comparability allowance.

(a) The amount of the comparability allowance payable for each category of physician position established under § 595.103 of this part must be the minimum amount necessary to deal with the recruitment and retention problem identified under § 595.104 of this part for that category of position. In determining this amount, the agency head shall consider the relative earnings, responsibilities, expenses, workload, working conditions, conditions of employment, and personnel benefits for physicians in each category and for comparable physicians inside and outside the Federal Government.

(b) A physician with 24 months or less of service as a Government physician may not be paid a physicians' comparability allowance in excess of \$14,000 per annum. A physician with more than 24 months of service as a Government physician may not be paid a physicians' comparability allowance in excess of \$30,000 per annum.

(c) In determining length of service as a Government physician, agencies must exclude periods of leave without pay. However, agencies may credit any

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prior service as a Government physician, including—

(1) Prior service as a physician under sections 7401 and 7405 of title 38, United States Code; and

(2) Prior active service as a medical officer in the Commissioned Corps of the Public Health Service under title II of the Public Health Service Act (42 U.S.C. chapter 6A).

(d) Under subsection (b)(1) of 5 U.S.C. 5948, a physician who is employed on less than a half-time or intermittent basis is excluded from the physicians' comparability allowance program altogether. A physician who is employed on a regularly scheduled part-time basis of half-time or more is eligible to receive an allowance in accordance with this part, but any such allowance shall be prorated according to the proportion of the physicians' work schedule to full-time employment.

(e) A physician who is serving with the Government under a loan repayment program shall have the amount of loan being repaid deducted from any allowance for which he or she is eligible in accordance with this part, and may receive only that portion of such allowance which exceeds the amount of loan being repaid by service during the period in question.

[44 FR 40876, July 13, 1979, as amended at 53 FR 8141, Mar. 14, 1988, and 53 FR 24011, June 27, 1988; 64 FR 72458, Dec. 28, 1999]

§ 595.106 Termination of service agreement.

(a) Under subsection (f) of 5 U.S.C. 5948, each service agreement entered into by an agency and a physician under the comparability allowance program may prescribe the terms under which the agreement may be terminated and the amount of allowance, if any, required to be refunded by the physician for each reason for termination. In the case of each service agreement covering a period of service of more than one year, the service agreement must include a provision that, if the physician completes more than one year of service pursuant to the agreement, but fails to complete the full period of service specified in the agreement either voluntarily or because of misconduct by the physician,

the physician shall be required to refund the amount of allowance he or she has received under the agreement for the 26 weeks of service immediately preceding the termination (or for a longer period, if specified in the agreement).

§ 595.107 Approval of agency plans.

(a) An agency may not enter into any service agreement under 5 U.S.C. 5948 until the agency's plan for implementing the physicians' comparability allowance program has been submitted to and approved by the Office of Management and Budget in accordance with this section and such instructions as the Office of Management and Budget may prescribe.

(b) The agency shall submit to the Office of Management and Budget a complete description of its plan for implementing the physicians' comparability allowance program, including the following:

(1) An identification of the categories of physician positions that the agency has established under § 595.103 of this part, and of the basis for such categories;

(2) An explanation of the determination that a recruitment and retention problem exists for each such category, in accordance with the criteria in § 595.104 of this part; and

(3) An explanation of the basis for the amount of comparability allowance determined necessary for each category of physician position under § 595.105 of this part.

(c) The Office of Management and Budget shall review each agency's description of its plan for implementing the physicians' comparability allowance program and determine if the plan is consistent with the provisions of 5 U.S.C. 5948 and the requirements of this part, and shall advise the agency within 45 calendar days of receipt of the agency's plan by the Office of Management and Budget whether the plan is so consistent or what changes need to be made in the agency's plan to make it so consistent.

[44 FR 40876, July 13, 1979, as amended at 53 FR 8142, Mar. 14, 1988, and 53 FR 24011, June 27, 1988]

§ 595.108 Reports.

(a) Because of the experimental and temporary nature of the physicians' comparability allowance program, it will be necessary for the Office of Personnel Management to collect information on the administration of the program by the agencies, and on the effects the program has on the recruitment and retention of Government physicians. The Office of Personnel Management will prescribe the number, contents, timing, and format of the reports necessary to collect this information, and every agency using the physicians' comparability allowance program is required to submit such reports as the Office may prescribe. These reports must include, among other things, the following:

(1) A listing of the amount of allowance actually paid to the agency's physicians; and

(2) An assessment of the effect of the physicians' comparability allowance program on the agency's recruitment and retention of physicians.

(b) The Central Intelligence Agency and the National Security Agency are not subject to the requirements of this section.

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